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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re K.D, a Person Coming Under the
Juvenile Court Law.

B212689
(Los Angeles County
Super. Ct. No. LK03487)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent

v.

D.D., et al.,

Defendants and Appellants.

APPEAL from an order of the Superior Court of Los Angeles County, Marilyn Mackel, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Reversed with directions.

Michael A. Salazar, under appointment by the Court of Appeal, for Defendant and Appellant, D.D.

Karen B. Stalter, under appointment by the Court of Appeal, for Defendant and Appellant, E.U.

Raymond G. Fortner, Jr., Los Angeles County Counsel, James M. Owens, Assistant County Counsel, and Frank J. DaVanzo, Principal Deputy County Counsel for Plaintiff and Respondent.

Tyson Nelson for minor.

D.D. and E.U., parents of the child, K.D., appeal from a Welfare and Institutions Code section 366.26 parental rights termination order. The parents contend the parental rights termination order must be reversed because of noncompliance with the Indian Child Welfare Act and related California provisions. The parties have stipulated to a limited reversal of the parental rights termination order to allow compliance with the Indian Child Welfare Act and for the remittitur to issue forthwith. We accept the parties' stipulation.

The parties agree there was noncompliance with the Indian Child Welfare Act. We concur in their assessment in this regard. Further, the parties agree the parental rights termination order must be reversed and remanded to permit proof of compliance with the Indian Child Welfare Act. Our ability to accept a stipulated reversal is controlled by our prior decision in the case of *In re Rashad H.* (2000) 78 Cal.App.4th 376, 379-382. The present case involves reversible error; the failure to present substantial evidence of compliance with the Indian Child Welfare Act. (*In re Marinna J.* (2001) 90 Cal.App.4th 731, 736-740; *In re Desiree F.* (2000) 83 Cal.App.4th 460, 471-472.) Because the parental rights termination order would be reversed under any circumstances, a stipulated reversal advances those interests identified in Code of Civil Procedure section 128, subdivision (a)(8) for the reasons we explained in the case of *In re Rashad H.*, *supra*, 78 Cal.App.4th at pages 379-382. (See *Union Bank of California v. Braille Inst. of America, Inc.* (2001) 92 Cal.App.4th 1324, 1329-1330.) If proper notice is provided and no tribe asserts that the child is of Indian descent, the parental rights termination order is to be reinstated.

The Welfare and Institutions Code section 366.26 order is reversed and the cause is remanded for compliance with the federal Indian Child Welfare Act requirements and related state provisions. This opinion is final forthwith. The remittitur is to issue forthwith.

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TURNER, P. J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.